

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hans Gunter Felske et al.
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Group Art Unit: 3637
Examiner: Timothy Michael Ayers
Title: ATTACHMENT APPARATUS FOR A WORK SURFACE
PANEL

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Commissioner for Patents
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REPLY BRIEF

Appellants hereby file a reply brief in the above-identified application.

Table of Contents

(1) SUMMARY OF THE NEW REASONING SET FORTH IN THE EXAMINER'S ANSWER DATED MARCH 3, 2010.....	3
(2) ARGUMENT.....	3
(3) CONCLUSION.....	10

(1) SUMMARY OF THE NEW REASONING SET FORTH IN THE EXAMINER'S ANSWER DATED MARCH 3, 2010

On Pages 8 and 9 of the Examiner's Answer dated March 3, 2010, the Examiner sets forth new reasoning as to why, in the Examiner's opinion, claims 18 - 15 and 17 - 27 are unpatentable under 35 USC § 112, first paragraph, as failing to comply with the written description requirement.

On Page 11 of the Examiner's Answer dated March 3, 2010, the Examiner sets forth new reasoning as to why, in the Examiner's opinion, claim 19 is anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509.

On Pages 11 and 12 of the Examiner's Answer dated March 3, 2010, the Examiner sets forth new reasoning as to why, in the Examiner's opinion, claim 17 is anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509.

Appellants herewith address the new arguments set forth by the Examiner with respect to the above-noted rejections of claims 18 - 15 and 17 - 27 under 35 USC § 112, first paragraph, claim 19 under 35 U.S.C. §102(b), and claim 17 under 35 U.S.C. §102(b), and respectfully request withdrawal of these rejections for the reasons set forth in the Appeal Brief filed 6/16/09 and the following reasons.

(2) ARGUMENT

- A. The Newly Stated Reasoning for Rejecting Claims 18 - 15 and 17 - 27 under 35 USC § 112, first paragraph, is Erroneous

i.) Selected Chronology

In the Final Office Action dated November 19, 2008, the Examiner had asserted that, with regard to the rejection of claims 18 - 15 and 17 - 27 under 35 USC § 112, first paragraph, as failing to comply with the written description requirement, "Claims 8 and 19 recite in lines 12-14 that 'the foot portion of the holding pin [has] a nominal transverse extent ... at least as large as the largest transverse extent of the aperture of the second structure'; and in lines 15-16 that 'the foot portion of the holding pin [has], in

the fully fitted position of the holding pin, at [sic] a smaller transverse extent than its nominal transverse extent'. These limitations are unsupported by the specification, which states that shanks 8, 9 (considered to correspond to the claimed 'foot portion') must be forced apart from one another if they are to engage attachment hole 6 (page 11, lines 12-23). This would indicate that the "nominal transverse extent" of the shanks can be no larger than the extent of hole 6, and that the transverse extent of the shanks in the fully fitted position would be as large as the nominal transverse extent. Further, Fig. 4 shows the holding pin engaging the holes, in what would appear to be the fully fitted position, with the shanks inserted into the hole at what appears to be their nominal transverse extent (no apparent deflection when compared to Fig. 3, for example), which is no larger than the extent of the hole." (see Pages 2 and 3 of the Final Office Action dated November 19, 2008). Appellants addressed this argument of the Examiner on Pages 13 and 14 of the Appeal Brief filed 6/16/09, explaining that "with the nominal transverse extent of the shanks 8, 9 being at least as large as the largest transverse extent of the attachment hole 6 of the body 3, the shanks 8, 9 of the holding pin 7 exert outward biasing force on the body 3 to thereby secure the holding pin 7 and the body 3 to one another in the installed position. To release this securement of the holding pin 7 from the attachment hole 6, the shanks 8, 9 can be pressed towards one another in the installed position."

Now, on Pages 8 and 9 of the Examiner's Answer dated March 3, 2010, the Examiner refers to Appellants' statement that "[t]o release this securement of the holding pin 7 from the attachment hole 6, the shanks 8, 9 can be pressed towards one another in the installed position" and now additionally sets forth the following new reasoning in support of the rejection: "While this phrase could imply that the rest position (nominal transverse extent) of the shanks (8,9) press into the attachment hole (6) and therefore need to be pried together to release the holding pin, but based on the rest of the specification, the examiner contends that the need for the shanks (8,9) to be pried together would result from deformation caused by the screw insertion as the shank edges 'bury' itself into the attachment hold (page 11, lines 19-21). As seen in figure 4, there is a small space between the walls of the attachment hold (6) and the shanks (8,9) of the holding pin. As seen in page 11 lines 11-23 of the specification, a screw (16) is

required to create a close force fit and press the shank parts towards the inner wall of the attachment hole (6) thereby implying a loose fit before the screw is inserted. The applicant also argues that the tapered foot portion known as the smaller transverse extent causes the shank parts (8,9) to press towards each other when inserted in the attachment hole. This is not what the specification or drawings support, the examiner contends that since the attachment hold (5) is smaller (due to the shoulder section of the holding pin) that it is this aperture (5) of the first structure that presses the shanks together and not the aperture (6) of the second structure."

ii.) Discussion

Contrary to the Examiner's contention that the shanks (8,9) are "pried together" as a result of deformation caused by the screw insertion as the shank edges "bury" itself into the attachment hole 6, Appellants submit that insertion of a screw or other "spreading" assistance structure is not required to move the shanks (8, 9) toward one another. Instead, for example, the shanks (8,9) can be formed of a material that imparts an inherent bias on the shanks toward their largest transverse extent – i.e., the holding pin may be formed of a thermoplastic material which continuously maintains the shanks (8, 9) at the rest position (nominal transverse extent) that is no less than the diameter of the attachment hole 6. Consequently, the shanks (8,9) will exert an outward transverse force on an aperture such as the attachment hole 6 of the panel 3 to thereby effect securement of the holding pin to the body 3. Also, with the shanks (8,9) formed of such a material, an effort to dislodge the shanks (8, 9) from the attachment hole 6 will result in the shanks being moved toward one another against the natural material strength of the holding pin so as to thereby reduce the actual diameter (the transverse extent) of the shanks to a diameter less than the diameter of the attachment hole 6. To be sure, the insertion of an attachment element to effect spreading of the shanks (8, 9) that may be, for example, in the form of a screw will further strengthen the securement of the holding pin in the attachment hole 6. However, it is clear that the specification of the present application discloses an operation of the holding pin to be secured in the attachment hole 6 in a manner in which the shanks (8, 9) exert an outward transverse

force against the walls of the attachment hole 6 without the assistance of a screw or other separate "spreading" assistance structure. Accordingly, Appellants continue to insist that the rejection of claims 8-15 and 17-27 under 35 USC § 112, first paragraph, is erroneous, and the contention of the Examiner that the holding pin of the present invention can only be operable if an attachment element such as a screw (16) is inserted is not correct.

With reference again to the new reasoning set forth by the Examiner in support of this rejection of claim 8-15 and 17-27, the Examiner notes that Figure 4 of the present application shows a small space between the walls of the attachment hole 6 and the shanks (8, 9) of the holding pin. However, Appellants submit that the version of Figure 4 in the drawings of the present application does not show a small space. Accordingly, any theory propounded by the Examiner that the shanks (8, 9) of the holding pin are not operable in and of themselves to provide securement to the attachment hole 6 based upon the presence of a small space between the walls of the attachment hole 6 and the shanks is not correct.

Along these same lines, the Examiner's contention that the attachment hole 5, allegedly being of a smaller diameter, is the operative element that presses the shanks (8, 9) together, and not the (larger diameter) attachment hole 6 of the second structure, is not a correct contention. Instead, as noted by Appellants throughout the prosecution of the present application, the relatively smaller transverse extent of the holding pin - namely, the tapered foot portion - is the portion of the holding pin that initially engages the attachment hole 6 of the second structure and, as the holding pin is progressively advanced into the attachment hole 6, the increasingly larger taper of the tapered foot portion transitions into the constant diameter portion of the shanks 8, 9 (the portion having the nominal transverse extent) and it is this transition into the portion of the holding pin at its nominal transverse extent that brings about the movement of the shanks 8, 9 toward one another, as these shanks 8, 9 have a nominal transverse extent that is no less than the attachment hole 6.

It is submitted that the newly stated reasoning for rejecting claims 18 - 15 and 17 - 27 under 35 USC § 112, first paragraph, is erroneous.

- B. The Newly Stated Reasoning for Rejecting Claim 19 As Anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509 is Erroneous

i.) Selected Chronology

In the Final Office Action dated November 19, 2008, the Examiner had asserted that, with regard to the rejection of claim 19 as anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509: "Though Poe does not expressly teach that the pin maintains the first and second structures at an axial spacing from one another, the pin would inherently be capable of holding the structures spaced apart (as Fig. 2)" (see Page 5 of the Final Office Action dated November 19, 2008). Appellants addressed this argument of the Examiner on Pages 16 and 18 of the Appeal Brief filed 6/16/09, explaining that "... a look at the drawing figure of Poe '549 referenced by the Examiner - namely, Fig. 2 of Poe '549 - demonstrates clearly that the pin of Poe '549 would not inherently be capable of holding the structures spaced apart."

Now, on Page 10 of the Examiner's Answer dated March 3, 2010, the Examiner additionally sets forth the following new reasoning in support of the rejection: "The appellant argues that Poe does not teach an arrangement in which the holding pin engages the first structure and the second structure to maintain the first structure at an axial spacing from the second structure in the region of the apertures of the first and second structures. Please note that claims 8 and 16 are directed to solely the attachment apparatus and the first and second structures are just part of the intended use." and, on Page 11 of the Examiner's Answer dated March 3, 2010, "Independent claim 19 is directed to the combination of the both structures and the attachment arrangement. As seen in figure 2 of Poe, there is a position of the first and second structures being axial spaced apart. As seen in figure 2, the holding pin is in a position where the constriction portion (9,10,11) of the holding pin substantially is in the aperture of the second structure and if the plunger is pressed in at this point, then the shanks (6) would not be pressed all the way out as seen in figure 3 of Poe. The examiner contends that under this situation, the holding pin would not pull the two structures towards each other as the appellant argues on page 17 of the brief. Therefore under

this situation with no modification to the taught structure of Poe, the first and second structures would be brought to a position that the shanks "bury" into the aperture and thereby maintain an axial spacing."

ii.) Discussion

With respect to the Examiner's contention that Figure 2 of Poe illustrates a situation in which the "first" and "second" structures of Poe would be brought to a position in which an axial spacing is maintained therebetween, Appellants point out that Poe itself expressly teaches away from such a situation. Note, for example, column 2, lines 37-41 of Poe: "When it is desired to disconnect the panels, an outward force applied to the plunger withdraws the friction ring 15 from the bore 3 and the expander head 13 from the constriction 9 returning the parts to the condition shown in Figure 2." This passage from the Poe patent expressly discloses that, in the condition of the plunger entry resistance means shown in Figure 2, the expansible grommet 1 and the expander plunger 2 of the Poe arrangement do not exert any securing force or attachment force on the second panel 23. Accordingly, while Figure 2 of the Poe patent may show the first panel 22 and the second panel 23 at an axial spacing from one another, it is inaccurate and inconsistent with the disclosure of the Poe patent to contend that the plunger entry resistance means of that patent operates to maintain the first panel 22 and the second panel 23 at an axial spacing from one another. In the arrangement of the Poe patent, there is simply no attachment between the fingers 6 and the second panel 23 when the expander head 13 of the expander plunger 22 has been retracted to the position shown in Figure 2 of the Poe patent.

It is submitted that the newly stated reasoning for rejecting claim 19 as anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509 is erroneous.

C. The Newly Stated Reasoning for Rejecting Claim 17 As Anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509 is Erroneous

i.) Selected Chronology

In the Final Office Action dated November 19, 2008, the Examiner rejected claim 17 as anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509 (see Page 5 of the Final Office Action dated November 19, 2008) but did not expressly identify the structure of Poe US Patent No. 4,114,509 alleged to anticipate all of the elements of claim 17. Now, on Page 11 of the Examiner's Answer dated March 3, 2010, the Examiner additionally sets forth the following new reasoning in support of this rejection of claim 17: "The appellant argues in regards to claim 17 that the aperture in the first structure of Poe is not an elongated hole to prevent rotational movement. The examiner agrees that Poe does not teach an elongated hole, but since claim 17 is dependent from claim 8, it was considered to be directed to only subcombination and therefore the elongated hole was given only intended weight."

ii.) Discussion

With respect to the Examiner's statement on Page 11 of the Examiner's Answer dated March 3, 2010 that the feature of the "elongated hole" recited in claim 17 of the present application has only been given weight as an intended use, Appellants submit that claim 17, in fact, positively recites a structure – namely, the "first seating extent" - that must be taken into account in any determination that the attachment apparatus recited in claim 17 of the present application is taught or disclosed by the prior art. Specifically, claim 17 of the present application recites "the first seating extent is compatibly configured with respect to the elongated hole of the aperture of the first structure" This is a positive recital of structure that cannot be dismissed as merely describing an "intended use" of the attachment apparatus recited in claim 17. Accordingly, in view of the fact that the Examiner has failed to allege that any of the prior art of record teaches or discloses an attachment apparatus having the features of the attachment apparatus recited in claim 17 of the present application including a first seating extent compatibly configured with respect to the elongated hole of an aperture of a first structure, it is submitted that the Examiner has incorrectly asserted that the

"elongated hole" feature recited in claim 17 of the present application is only entitled to weight as an "intended use."

It is submitted that the newly stated reasoning for rejecting claim 17 as anticipated under 35 U.S.C. §102(b) by Poe US Patent No. 4,114,509 is erroneous.

(3) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejection.

Respectfully submitted,

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